

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 23-3143 PA (ASx) CV 23-2072 PA (ASx)	Date	May 5, 2023
Title	Changwu Huang et al v. Merrick B. Garland et al		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE		
Kamilla Sali-Suleyman	Not Reported		N/A
Deputy Clerk	Court Reporter		Tape No.
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:	
None		None	

Proceedings: IN CHAMBERS - COURT ORDER

On March 20, 2023, plaintiffs Changwu Huang and Ying Lei (“Plaintiffs”) commenced an action, Case No. CV 23-2072 PA (ASx), that alleged Plaintiffs filed an I-829 Petition by Investor to Remove Conditions on Permanent Resident Status with the Department of Homeland Security, U.S. Citizenship and Immigration Services (“USCIS”). Plaintiffs allege that, to date, the I-829 Petition has not be processed, despite Plaintiffs contacting USCIS on two separate occasions. On April 26, 2023, Plaintiffs initiated a new action, Case No. CV 23-3143 PA (ASx), that contains a nearly identical Complaint with duplicate factual allegations, causes of action, and seeking the same relief.

On April 27, 2023, the Court ordered Plaintiffs to show cause in writing by May 4, 2023 why Case No. CV 23-3143 PA (ASx) should not be dismissed as a duplicate action. The Court warned that “[f]ailure to timely or adequately respond to this Order to Show Cause may, without additional warning, result in the dismissal of the claims asserted in CV 23-3143 PA (ASx) with prejudice.” As of today’s date, Plaintiffs have not filed a response.

“A litigant has no right to maintain a second action duplicative of another.” Barapind v. Reno, 72 F. Supp. 2d 1132, 1145 (E.D. Cal. 1999) (citing The Haytian Republic, 154 U.S. 118, 124, 14 S. Ct. 992, 993, 38 L. Ed. 930 (1894)); accord Zerilli v. Evening News Assn., 628 F.2d 217, 222 (D.C. Cir. 1980); Sutcliffe Storage & Warehouse Co. v. United States, 162 F.2d 849, 851 (1st Cir. 1947); Walton v. Eaton, 563 F.2d 66, 71 (3d Cir. 1977); Missouri ex rel. Nixon v. Prudential Health Care Plan, Inc., 259 F.3d 949, 954 (8th Cir. 2001); Church of Scientology of California v. U.S. Dep’t of Army, 611 F.2d 738, 750 (9th Cir. 1979). Several circuits – including the Ninth Circuit – have also held that a newly filed complaint may not be tactically employed to bypass procedural conditions imposed on the first complaint. See, e.g., Adams v. Cal. Dep’t of Health Servs., 487 F.3d 684, 688 (9th Cir. 2007) (affirming dismissal with prejudice of duplicative action filed “in an attempt to avoid the consequences of [a plaintiff’s] own delay and to circumvent the district court’s denial of her untimely motion for leave to

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amend her first complaint”); Walton, 563 F.2d at 71; Oliney v. Gardner, 771 F.2d 856, 859 (5th Cir. 1985); Hartsel Springs Ranch of Colorado, Inc. v. Bluegreen Corp., 296 F.3d 982 (10th Cir. 2002).

The Court therefore dismisses CV 23-3143 PA (ASx) with prejudice as a duplicate action. See Adams, 487 F.3d at 688 (affirming dismissal with prejudice of duplicative action). The Court will issue a Judgment consistent with this Order.

IT IS SO ORDERED.